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**Case No. 22-15961**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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DONALD J. TRUMP, the Forty-Fifth President of the United States;  
LINDA CUADROS; AMERICAN CONSERVATIVE UNION; RAFAEL BARBOSA;  
DOMINICK LATELLA; WAYNE ALLYN ROOT; NAOMI WOLF,  
*Plaintiffs-Appellants,*

v.

TWITTER, INC.; JACK DORSEY,  
*Defendants-Appellees,*

and

UNITED STATES OF AMERICA,  
*Intervenor-Appellee.*

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*Appeal from the United States District Court for the Northern District of California (San Francisco),  
Case No. 3:21-cv-08378-JD · The Honorable James Donato, District Judge*

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**APPELLANTS DONALD J. TRUMP, AMERICAN CONSERVATIVE UNION,  
RAFAEL BARBOSA, LINDA CUADROS, DOMINICK LATELLA,  
AND WAYNE ALLYN ROOT'S REPLY TO APPELLEES' OPPOSITION TO  
MOTION TO FILE AN OVERLENGTH BRIEF**

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Pursuant to Fed. R. App. P. 27(a)(4) and Circuit Rule 32-2, Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Allyn Root (“Plaintiffs”) respectfully submit this reply in support of their motion for permission to file an Opening Brief that exceeds the 14,000 word type-volume limitation set forth in Circuit Rule 32-1(a) by **952 words**.

Defendants oppose Plaintiffs’ Motion in one sentence: “This case is of ordinary complexity, plaintiffs have already filed two separate briefs addressing the same claims, and plaintiffs have not demonstrated the ‘extraordinary and compelling need’ necessary to justify yet further opportunity to assert their arguments.”

This is no ordinary case in complexity and importance. The Declaration of Marie L. Fiala filed with Plaintiffs’ Motion (“Fiala Declaration”) provides extensive details regarding the legal and factual complexity of the case. Fiala Declaration, ¶¶ 3–7, 9. The same Declaration also provides an explanation of the extraordinary importance of this case. Fiala Declaration, ¶ 8.

Plaintiffs’ need for additional briefing space in which to address the factual record, judicially noticeable facts, and legal arguments was not ameliorated by the fact that Dr. Wolf filed a separate Opening Brief. Plaintiffs’ motion should be evaluated on its own merits and without regard to Wolf’s briefing.

Dr. Wolf is separately represented, at her own request, and the facts underpinning her claims are, to some extent, distinct and different from those pertaining to Plaintiffs. Wolf's Opening Brief focuses on the facts specific to her claims, including that she has filed a motion for an indicative ruling under Fed. R. Civ. P. 60 in the District Court, seeking relief from the judgment below. That motion remains pending. *See* Appellant Naomi Wolf's Opening Brief at 4, 7, 12–13, 21–23.

Plaintiffs and Dr. Wolf prepared their Opening Briefs independently. The only communication between these parties regarding the substance of their submissions was that the undersigned counsel provided a copy of Plaintiffs' Excerpts of Record to counsel for Wolf to avoid burdening the Court with two separate Excerpts of Record. *See* Supplemental Declaration of Marie L. Fiala, filed herewith, ¶¶ 4–5.

Finally, Plaintiffs and Dr. Wolf were each entitled to file Opening Briefs of 14,000 words. Dr. Wolf's Opening Brief is only 5,421 words long. Thus, even if Plaintiffs' motion for leave to file a brief of 14,952 words is granted, the total briefing presented to this Court will total 20,373 words, far less than the maximum 28,000 words allowed under the Circuit Rules.

For all the foregoing reasons, Plaintiffs respectfully request that their motion be granted.

Dated: December 2, 2022

Respectfully submitted,

ANDREI POPOVICI  
MARIE L. FIALA  
LAW OFFICE OF ANDREI D. POPOVICI, P.C.

By: s/ Marie L. Fiala  
Marie L. Fiala

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**SUPPLEMENTAL DECLARATION OF MARIE L. FIALA  
IN SUPPORT OF MOTION FOR LEAVE TO FILE OPENING BRIEF  
THAT EXCEEDS TYPE-VOLUME LIMITATIONS**

I, Marie L. Fiala, hereby declare as follows:

1. I am an attorney at law, duly licensed to practice in the State of California and a member in good standing of the Bar of this Court. I am one of the counsel of record for Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Allyn Root (“Plaintiffs”) in this matter. I make this declaration based on my personal knowledge of the facts set forth herein.

2. Defendants-Appellees Twitter, Inc. and Jack Dorsey (“Defendants”) have opposed the motion, in part, on the ground that Plaintiff-Appellant Naomi Wolf (“Dr. Wolf”) has filed a separate Opening Brief.

3. Plaintiffs’ need for additional briefing space in which to address the factual record, judicially noticeable facts, and legal arguments was not ameliorated by the fact that Dr. Wolf filed a separate Opening Brief.

4. Dr. Wolf is separately represented, at her own request, and the facts underpinning her claims are, to some extent, distinct and different from those pertaining to Plaintiffs. Dr. Wolf’s Opening Brief focuses on the facts specific to her claims, including that she has filed a motion for an indicative ruling under Fed. R. Civ. P. 60 in the District Court, seeking relief from the judgment below. That

motion remains pending. *See* Appellant Naomi Wolf's Opening Brief at 4, 7, 12–13, 21–23.

5. Plaintiffs and Wolf prepared their Opening Briefs independently. Neither I nor anyone else representing Plaintiffs communicated or coordinated with Wolf or her counsel regarding the content of the parties' respective Opening Briefs. The only communication that occurred regarding the substance of the parties' submissions was that I provided a copy of Plaintiffs' Excerpts of Record to counsel for Wolf to avoid burdening the Court with two separate Excerpts of Record.

I hereby declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and accurate and that this declaration was executed on December 2, 2022, in Orinda, California.

*s/ Marie L. Fiala*

Marie L. Fiala

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Certificate of Compliance**

**9th Cir. Case Number(s): No. 22-15961**

I am the attorney for Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Allyn Root.

**This brief contains 789 words**, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief (*select only one*):

☒ [X] complies with the word limit of Fed. R. App. P. 27(d)(2) and the page limit of Cir. R. 27-1(1).

☐ [ ] is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.

☐ [ ] is an **amicus** brief and complies with the word limit of Fed. R. App. P. 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).

☐ [ ] is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.

☐ [ ] complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):

☐ [ ] it is a joint brief submitted by separately represented parties;

☐ [ ] a party or parties are filing a single brief in response to multiple briefs; or

☐ [ ] a party or parties are filing a single brief in response to a longer joint brief.

☐ [ ] complies with the length limit designated by court order dated \_\_\_\_\_.

☐ [ ] is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

**Signature:** s/ Marie L. Fiala

**Date:** December 2, 2022